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EXAMINER

FERGUSON, LAWRENCE D

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE K. PHILLIPS and NOAL S. PHILLIPS

Appeal 2009-002862
Application 10/686,758
Technology Center 1700

Decided: August 28, 2009

Before CATHERINE Q. TIMM, MICHAEL P. COLAIANNI, and
JEFFREY B. ROBERTSON, *Administrative Patent Judges*.

ROBERTSON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 3, 4, 6, 9-11, 14-20, 22, 23, 25, 28, 29, and 32-49, which are all of the pending claims in the application. (Appeal Brief filed April 3, 2008, hereinafter "App. Br.," 2). We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We REVERSE.

Appellants describe a copy resistant security sheet having a light reflective layer disposed over a substrate and a light diffusive layer disposed over at least a portion of the reflective layer, where bearer information is overprinted on the reflective and diffusive layers. Claim 1 is illustrative and recites:

1. A copy-resistant security sheet, comprising:

a substrate;

a light reflective layer disposed over the substrate; and

a light diffusive layer disposed over at least a portion of the reflective layer, the diffusive layer having a diffusive background pattern segmenting the reflective layer into a reflective background pattern comprising a plurality of visibly discernible reflective elements;

wherein, when bearer information is overprinted on the reflective and diffusive layers, the reflective elements are configured for interfering with the bearer information on a copy of the document, thereby rendering the bearer information unreadable on the document copy.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Phillips	US 5,772,248	Jun. 30, 1998
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The Examiner rejected claims 1, 3, 4, 9-11, 15-20, 22, 23, 28, 29, and 33-49 under 35 U.S.C. § 102(b) as being anticipated by Phillips. The Examiner rejected claims 6, 14, 25, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Phillips.

The Examiner found that Phillips discloses that a latent image is formed on the surface of an overlay marker 10, which the Examiner equated to Appellants' reflective layer. (Examiner's Answer entered June 9, 2008, hereinafter "Ans.," 3-4). The Examiner found that Phillips discloses forming a latent image 14 (bearer information) on the surface of the overlay marker 10 and diffusing layer 16. (Ans. 6). The Examiner stated "[t]he overlay marking is formed by the raised markings (16) and image structure (18) (column 5, lines 46-50). Because the latent image (14) is imprinted over the overlay marker (column 3, lines 61-62) it is also printed over the raised markings (16) and image structure (18) which form the overlay marker." (Ans. 7). The Examiner also found that it is inherent that the bearer information of Phillips would be unreadable on a document copy. (Ans. 4).

Appellants contend that Phillips does not disclose that bearer information that is overprinted on the original document is rendered unreadable on a copy of the document and that latent image 14 is not overprinted on the image structure 18 and raised markings 16 because the latent image is formed by the contrast between image structure 18 and raised markings 16. (App. Br. 5-7).

ISSUE

Have Appellants shown reversible error in the Examiner's finding that Phillips discloses bearer information overprinted on reflective and diffusive layers of a copy-resistant security sheet, which is unreadable on a copy of the document?

FINDINGS OF FACT

The record supports the following Findings of Fact (FF) by a preponderance of the evidence.

1. Phillips states: "the surface of security overlay marker 10 comprises relief impressions which form a latent image 14."
(Col. 3, ll. 40-43).
2. Phillips states:
overlay marker 10 comprises a relief impression having at least two distinct and contrasting relief structures. The first relief structure is a background structure 15 which generally extends over a substantial portion of the surface of security tamper resistant overlay marker 10. The second relief structure is a contrasting image structure 18 which is generally formed within the boundaries of the background structure 15 to provide informational content to the security overlay marker 10. In the preferred embodiment, the latent image 14 comprises a series of relief impressions having a rectilinear background structure 15 forming the background pattern, with a contrasting image structure 18 forming a series of alphanumeric image patterns.
(Col. 4, ll. 1-13).

3. In describing the relief structure of latent image 14, Phillips states:

Background structure 15 is preferably formed by a series of parallel raised markings 16 which extend the length of security tamper resistant overlay marker 10 except in the portions in which the contrasting image structure 18 resides.

(Col. 4, ll. 25-29).

4. Phillips discloses that the relief impressions on the surface of overlay marker 10 are formed by embossing or debossing the surface of overlay marker 10 with a patterned die, which causes the correct structure of markings 16 and image structure 18 to form on the overlay marker 10. (Col. 5, ll. 43-50).

PRINCIPLES OF LAW

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631-32 (Fed. Cir. 1987).

ANALYSIS

We agree with Appellants that the Examiner erred in finding that Phillips discloses that bearer information is overprinted on reflective and diffusive layers of a copy-resistant security sheet as recited in claim 1. Specifically, the Examiner erred in finding that latent image 14 (bearer information) is imprinted over the raised markings 16 and image structure 18 which form the overlay marker 10. (Ans. 7).

Phillips discloses that the latent image 14 is formed by a series of contrasting relief impressions, which are defined by background structure 15, and formed from a series of raised markings 16 except where image structure 18 is present. (FF 2-3). Accordingly, contrary to the Examiner's statements, latent image 14 is not imprinted over raised markings 16, but is formed as a result of the contrast between image structure 18 and raised markings 16. Therefore, although Phillips discloses that latent image 14 is imprinted on overlay marker 10 (the recited reflective layer), we agree with Appellants that Phillips does not disclose that latent image 14 is also imprinted over markings 16 (the recited diffusive layer), as required by the claims. Moreover, even if bearer information were to be overprinted on markings 16, there is no indication that markings 16 would be of a sufficient pattern to render the bearer information unreadable on a document copy.

The Examiner has not provided any additional rationale to remedy the deficiencies of the rejection of the independent claims in the rejection of claims 6, 14, 25, and 32 under 35 U.S.C. § 103(a). Accordingly, we reverse Examiner's rejection of claims 6, 14, 25, and 32 for the same reasons.

CONCLUSION

Appellants have demonstrated reversible error in the Examiner's finding that Phillips discloses bearer information overprinted on reflective and diffusive layers of a copy-resistant security sheet, which is unreadable on a copy of the document.

ORDER

We reverse the Examiner's decision rejecting claims 1, 3, 4, 9-11, 15-20, 22, 23, 28, 29, and 33-49 under 35 U.S.C. § 102(b) as being anticipated by Phillips. We reverse the Examiner's decision rejecting claims 6, 14, 25, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Phillips.

REVERSED

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